

THE INTEGRAL ROLE OF TRAINING
IN THE IMPLEMENTATION OF HATE CRIME LEGISLATION

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This research focuses on the association between law enforcement training and implementation of hate crime legislation. The Anti-Defamation League's state hate crime statutory provisions and the Federal Bureau of Investigation's Hate Crime Reporting by States data are examined. Section one includes the following: What Constitutes Hate?, The History of Hate Crime Legislation, and Issues Facing Hate Crime Legislation. Section two surveys literature on both Hate Crime Legislation and the training of law enforcement officers. Section three discusses the Anti-Defamation League and FBI data in detail and explains the methods used to test the association between law enforcement training and reporting of hate crime legislation. Findings yield a statistically significant association between law enforcement training and reporting of hate crime legislation.

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TABLE OF CONTENTS

	Page
ACKNOWLEDGMENTS	ii
LIST OF TABLES.....	iv
Chapter	
1. INTRODUCTION	1
2. LITERATURE SURVEY	7
3. MATERIALS AND METHODS.....	19
4. RESULTS AND DISCUSSION	24
5. RECOMMENDATIONS FOR FUTURE RESEARCH.....	31
APPENDIX.....	33
REFERENCE LIST	37

LIST OF TABLES

Table

1. Hate Crime Reporting Rates..... 24

2. State Provisions for Training and Data Collection on Hate Crime..... 27

3. Rate of Hate Crime Reporting by Provision for Training..... 29

CHAPTER ONE

INTRODUCTION

What Constitutes Hate?

In 1994 Charles C. Apprendi Jr. was arrested in Vineland, New Jersey for shooting several shots into the home of his black neighbors. He stated that he did not want them in his neighborhood because of their race. Under New Jersey law he was sentenced to second-degree possession of a firearm for unlawful purpose. This crime carries a prison term between 5 and 10 years. At no time did the court refer to the state's hate crime statute which provided for an enhanced sentence if the trial judge found by a preponderance of the evidence, that the defendant committed the crime with a purpose to intimidate a person or group because of their race. Apprendi pleaded guilty and the prosecutor filed a motion for sentence enhancement. Apprendi was sentenced to 12 years in prison, he appealed the case, but the appeals court upheld the original decision.

The United States Supreme Court received Apprendi's case and after close review held that any fact that increases the penalty for a crime beyond the prescribed statutory maximum, other than the fact of a prior conviction, must be submitted to a jury and be proved beyond a reasonable doubt. This decision made on June 26, 2000 will prove to be a landmark case affecting hate crime legislation. Numerous states follow the same sentencing guidelines of New Jersey. Therefore, the Supreme Court will now face dozens of hate crime cases that need to be reconsidered in the wake of the 5-to-4 ruling in *Apprendi v. New Jersey* (Greenhouse 2000). This ruling will require that law

enforcement and court personnel be trained on how to handle enhanced sentencing in hate crime cases. In order to fully understand the complex issues of hate crime legislation presently at hand it is important to view the past history that allowed for the doors leading this topic to be opened.

The History of Hate Crime Legislation

Beginning in the 1970s, the state and federal legislative bodies began to focus on issues concerning crime against minorities. New state and federal legislation was introduced that criminalized violence and intimidation motivated by bigotry and focused on minorities. The basis for these laws seemed to lie in the belief that the offenders committing these types of crimes posed a significant danger to society (Jenness, 1996).

Research suggests there has been a rise in the number of hate crimes since 1985. At the same time, legislatures at the local, state, and national level have enacted policies that both track and regulate hate crime (Haider-Markel, 1998). The literature survey will explore various reasons scholars believe hate crime legislation has been enacted across the states. Currently forty-nine states have some type of hate crime legislation, with Wyoming being the only state with no type of hate crime legislation.

The Anti-Defamation League (ADL) has been in the forefront of efforts both at state and federal levels supporting hate crime legislation. The belief is that the hate crime statutes are necessary because “failure to recognize and effectively address this unique type of crime could cause an isolated incident to explode into widespread community tension” (Anti-Defamation League, 1999:1). The ADL drafted a hate crime legislation model in 1981. In 1993, the Supreme Court upheld a Wisconsin hate crime statute that was based on the ADL legislation. This event marked an important milestone for hate

crime legislation. The ADL followed in 1994 with a comprehensive guide for states to reference when enacting hate crime legislation and it has influenced many states in their implementation of hate crime legislation. The ADL has done extensive reporting on hate crime legislation across the nation.

Congress enacted a federal complement, known as the Hate Crime Sentencing Enhancement Act, to hate crime legislation in 1994. This provision required the United States Sentencing Commission to increase the penalties for hate crimes. The 1994 Hate Crime Sentencing Enhancement Act defines hate crime as a crime in which the defendant intentionally selects a victim, or a property owner in the case of a property crime because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability or sexual orientation of any person (Anti-Defamation League, 1999). Hate crime legislation is geared at protecting crimes motivated by these protected classes. “The primary rationale for hate crime legislation is that harassment and intimidation, assault, and property destruction assume a particular dangerous socially disruptive character when motivated by prejudice” (Grigera, 1999:69). Scholars have worked to explain the growth of hate crime legislation, but their studies all seem to uncover reasons varying from the increase in hate crime to the political competition of politicians (e.g., Jenness, 1996; Medoff, 1999). The literature survey examines various reasons in more detail. Future research will need to be conducted to explain the increase in hate crime legislation over the past 15 years.

Issues Facing Hate Crime Legislation

Hate crime legislation has been criticized by individuals who argue that the law should remain blind to specific motives and should concentrate solely on the criminal act.

Opponents rely on the numerous past constitutional challenges that hate crime legislation has overcome. These challenges include the following issues: free speech, due process, and equal protection.

Free speech was challenged in the U.S. Supreme Court case of *Wisconsin v. Mitchell*. In this case, the Supreme Court upheld a Wisconsin statute providing for an enhanced sentence in cases in which the defendant intentionally selects the person against whom the crime is committed because of the victim's membership in a protected category (Anti-Defamation League, 1999). Protected social categories include: race, religion, ethnicity, sexual orientation, gender, mental and physical disability, and handicap. In this case the defendant was accused of having a group of African-Americans assault a young white man. The defendant argued that the Wisconsin penalty enhancement provision violated the protection granted to him under the First Amendment by punishing offensive thought. The court affirmed that the statute was directed at a defendant's conduct-committing a crime. The court rejected the suggestion that the statute would prohibit free speech by declaring that the bias motivation would have to be connected with a specific act (Grigera 1999).

Due Process has been challenged by many defendants on the basis that penalty enhancement provisions infringe on the due process clause of the U.S. Constitution by insufficiently informing them of what conduct on their part will render them to its penalties. Defendants contend the "because of" and "by reason of" language of the statutes are unconstitutionally vague by failing to afford adequate notice of the conduct proscribed. However, because the statutes require the commission of an underlying crime, the state courts have largely rejected these claims (Grigera, 1999).

Opponents, particularly those who believe the penalty enhancement statutes violate the equal protection clause of the U.S. Constitution, have challenged the issue of equal protection. Defendants claim, “the statutes unconstitutionally benefit minorities, because minorities are more likely to be victims of bias crimes, or that the statutes unconstitutionally burden majority members because majority members are more likely to be prosecuted” (Anti-Defamation League, 1999:74). States have rejected these arguments by recognizing that the statutes were designed to be neutral and that the state has a legitimate interest in implementing harsh punishment for hate crime (Grigera, 1999). Throughout these challenges hate crime legislation has proven to validate itself. Recently this validation has been discredited in the case of *Apprendi v. New Jersey*.

Recent United States congressional legislation has been bogged down in committees to expand the federal role in hate crime (Shapiro, 1999; The Blade 1999; Leo 1999). Personal observation revealed this topic was even included in the 2000 Presidential debates. Al Gore spoke on the importance of enacting federal hate crime legislation while George Bush stated his view simply by looking at murder as murder and not the motive for it. Conservatives claim they simply do not want to expand the list of protective classes in hate crime legislation to include sexual orientation.

The majority of research on hate crime is made up of highly politicized arguments by scholars (Grigera, 1999). The reasoning for this lies in the fact that the debates over the politics of hate crime legislation have choked off scholarship in interminable debates over the politics of hate crime legislative models (Haider-Markel, 1998). However, hate crime scholarship does not have to reduce to interminable political

debates. In fact, looking at variables that may explain the discrepancy in reporting rates of hate crimes might make for a better response to hate crime legislation.

This paper seeks to systematically understand why some states report hate crimes at a higher rate than others. All 50 states and the District of Columbia are included. The following questions are addressed in this research: 1) What are the variations in hate crime reporting across states?, 2) Can any variations in hate crime reporting be understood as a function of the “protected classes” covered in state legislation?, 3) Are statutory provisions for the collecting of data on hate crimes associated with hate crime reporting? and 4) Are statutory provisions for the training of law enforcement personnel on recognizing and reporting hate crime associated with hate crime reporting?

CHAPTER TWO

LITERATURE SURVEY

Since the topic of hate crime legislation exploded in the early 1990s scholars have debated over the constitutionality of hate crime legislation, the motivation of politicians to enact this type of legislation, and more recently the economic approach to understanding hate crime legislation. What follows is an overview of scholarly research focusing on hate crime legislation and law enforcement training. It should be noted that limited research exists on the topic hate crime training for law enforcement officers. Therefore general literature on law enforcement training is also included.

Hate Crime Literature Review

Czajkoski in “Criminalizing Hate: An Empirical Assessment” (1992), considers the issue of hate crime statutes in the state of Florida, specifically, the profile of hate crimes as they are tracked during the first year of Florida’s hate crime legislation.

The Florida Department of Law Enforcement was given a manual known as the Hate Crime Report Manual, which declares that motivation is the “key element in determining whether or not an incident is hate-related”. Based on the training they received from this manual, the law enforcement officers began tracking and reporting hate crime. Reports gathered from the Florida Department of Law Enforcement were used in this study. The following ten areas of the reports were examined: 1) Race of Victim, 2) Age and Sex of the Victim, 3) Race of Offender, 4) Age and Sex of the Offender, 5) Hate Crime Target and Offense, 6) Indicator of Hate Motivation, 7) Motivation, 8) Offender Race vs. Victim Race, 9) Offender Age vs. Victim Age, and 10) Incident Narratives.

Czajkoski concludes the following four points: 1) the distinction made between hate crime indicators incidentally manifested during a crime and indications of hate actually motivating a crime are critical, 2) the typical hate crime in Florida is racially motivated, committed by an adult male against another adult male, and is directed against the person, 3) words are the most frequent indicators of the hate crime motivation, and assault is most often the underlying offense, and 4) most victims are white and their offender is black.

Future studies in Florida should dive further into examining the fact that preliminary research shows that there are a higher number of blacks victimizing whites. The proportion of whites to blacks in the population and the known pattern of whites victimizing blacks warrant this further investigation. The research suggests that as recording mechanisms are refined and additional groups are added to the protective statutes the hate crime incidents will rise. The question then posed is whether this rise will be due to worsening intergroup relations or to bureaucratic effects.

Jenness and Grattet in “The Criminalization of Hate: A Comparison of Structural and Polity Influences on the Passage of “Bias-Crime” Legislation in the United States” (1996) take a look at the issue of what social forces shape hate crime legislation. The authors review a comprehensive list of hate crime statistics in the United States and social indicator data to answer these two questions: 1) What social factors best predict the passage of hate crime legislation at the state level? In addition, 2) How do structural and polity variables compare and interact in terms of their impact on the criminalization process.

Using logistic regression analysis, the authors found: 1) social disorganization variables produce no significant effects on the passage of hate crime laws, 2) income inequality proves to be the most critical factor among measures of the state racial and economic composition, 3) no evidence for the assertion that hate crime legislation is a response to economic decline, 4-6) probability of adopting a bias-motivated violence and intimidation law does not seem to depend upon the degree to which states are committed to establishing and protecting group rights, the presence of minorities in politically influential positions, or the capacity of the state to engage in institution-building.

This analysis does not provide a clear picture of the social factors that shape the passage of hate crime laws. The findings of this study suggest lawmakers look to models of action in other states in order to enact hate crime legislation. Moreover, that the social and media issues are not the driving force behind hate-crime laws. This research lays the groundwork for future studies to investigate the reasoning behind lawmaker's decision to enact hate crime legislation.

Grattet, Jenness, and Curry, in "The Homogenization and Differences of Hate Crime Law in the United States, 1978 to 1995: Innovation and Diffusion in the Criminalization of Bigotry" (1998) examine relevant propositions from the innovation and diffusion literature and note their implications for the patterning of hate crime laws. Their research seeks to answer how criminalization diffuses over time and space, and how criminalization resembles the broader social dynamics associated with institutionalization.

Event history analysis was used to compare the spread of hate crime laws to known correlates of diffusion of other policy forms. The event history analysis with a

quantitative and interpretive analysis of the patterning of the content of hate crime laws is also studied. The authors identified and documented all state level hate crime legislation in the United States. The data used in this study was obtained from the following seven groups: 1) the National Institute against Prejudice and Violence, 2) the Center for Democratic Renewal, 3) the Southern Poverty Law Institute, 4) the National Gay and Lesbian Task Force, 5) the Anti-Defamation League of B'nai B'rith, 6) state Attorneys General Offices, and 7) WestLaw. Each statute was coded into four areas: 1) statute's year of enactment, 2) specific status provisions included in each piece of legislation and the year each was written into law, 3) previously referenced criminal conduct included in each piece of legislation and the year each was written into law, and 4) legal strategies reflected in each statute. The authors identified five legal strategies used in hate crime legislation. The five strategies are as follows: 1) statutes criminalizing interference with civil rights, 2) statutes that create the separate crime of ethnic intimidation or malicious harassment, 3) statutes that create the crime of ethnic intimidation or malicious harassment contingent upon violation of other parts of the criminal code, 4) modification of a preexisting statute, and 5) penalty enhancement statutes.

The research from this study concludes that pressure to adopt a hate crime law builds as more and more states within the system enact laws. It was also found that states with more innovative policy cultures pass laws earlier than do those with less innovative policy cultures. Their investigation into the content of hate crime laws shows that their diffusion involves both homogenization and differentiation. Thus, the content is contingent upon when it enters the ongoing institutionalization processes. The research calls for a more comprehensive understanding of the relationship between

institutionalization and the differentiation of the content of cultural practices. The authors suggest that this relationship extends well beyond the study of crime control.

Haider-Markel in “The Politics of Social Regulatory Policy: State and Federal Hate Crime Policy and Implementation Effort” (1998) explore the factors that influence hate crime policy and implementation. He looks specifically at the social regulatory policy in an attempt to explain hate crime legislation.

Social regulatory policies involve multiple political actors and tend to be highly salient and thus attractive to many politicians. Social regulatory policies involve citizens, interest groups and politicians. This study measured the state hate crime policy on a ten point additive index. Points were assigned to each state based on the scope of hate crime laws and the specific groups. Five categories determined if a state received a point. The categories were as follows: 1) a law concerning bias motivated violence and intimidation, 2) a law allowing for civil action by victims, 3) a law providing for increased criminal penalties, 4) a law requiring law enforcement agencies to collect data on bias motivated crimes, and 5) a law requiring training of law enforcement personnel in the identification of hate crimes. The independent variables were: 1) influence of salience, 2) interest groups, 3) competition between political parties, 4) the hate crime rate, and 5) the strength of law enforcement bureaucracy.

The major finding of this study was that hate crime policy arises largely out of party competition, the salience of hate crime issues, and the strength of interest groups. The study also found that the hate crime rate is negatively related to the scope and coverage of hate crime policy. Thus, the hate crime rate does not have a significant influence on state implementation effort. This means that the state effort to implement

federal hate crime policy is not a reaction to the level of hate crime. Hate crime simply increases the salience, which activates interest groups causing an increased public knowledge of the problem. This study produced results that many researchers believe to be true. More studies focused on the social regulatory policy theory should be conducted to confirm the outcome of this research.

Jeness in “Managing Differences and Making Legislation: Social Movements and the Racialization, Sexualization, and Gendering of Federal Hate Crime Law in the U.S., 1985-1998” (1999) evaluates the historical context for federal hate crime law. Jeness analyzed how the adoption of select status provisions, such as race, religion, ethnicity, sexual orientation, gender, and disabilities has caused some victims of discriminatory violence to be recognized as such while others have gone unnoticed.

Jeness reviewed the hearings, reports, debates, and committee prints addressing the following three bills: The Hate Crime Statistics Act, The Violence Against Women Act, and The Hate Crimes Sentencing Enhancement Act. The transcripts were organized into key analytic dimensions that included: 1) the identity of the claimsmakers involved in the law’s production, 2) the types of claims put forth in favor of and in opposition to various legislative proposals, and 3) various ways status characteristics were characterized, described, implicated, and negotiated in the process of making federal hate crime law. These dimensions were coded and tracked from 1985 to 1998. The data became a comparative case study that allowed for empirical investigation and ultimately the development of theoretical concerns dealing with federal hate crime legislation.

The findings of this study conclude that hate crime has been distinguished from “normal” crime because of activist, media, and legislative attention devoted to the

perpetrators' motivation and the socially recognizable characteristics of the victims. Jeness points out four issues that emerged from her research: 1) success of social movement mobilization as it interfaces with lawmaking and translates into law is contingent upon a particular type of categorization work; 2) social movement mobilization is more critical to the construction of people-categories early in the history of construction of the condition-category; 3) institutional templates develop, large-scale institutional processes eclipse mesolevel social movement-related process to determine the increasingly expanded and differentiated content of the people-category; and 4) exclusive focus on broad structural imperatives or "moral entrepreneurs" and lobbying activists produce only a limited view of how and why legislators take action, what kinds of crime policy they design, and what types of injuries are recognized by law.

Future studies need to focus on unfolding meanings associated with social problems in general and legally defined victims in particular. This type of research will help determine if different types of law, victims, and social problems show different tendencies over time.

Medoff in "Allocation of Time and Hateful Behavior: A Theoretical and Positive Analysis of Hate and Hate Crimes" (1999) used the rational-choice economic approach to analyze hateful behavior. The theory was tested on United States hate crime data and the empirical results provide convincing support for this model.

Medoff examines several psychological explanations of hateful behavior but points out that these explanations do not provide useful theories of hate because they do not generate empirically verifiable hypotheses. Medoff attempts to actually test the validity of the economic rational-choice approach behavior as it applies to hateful

activity. The research looks at the determinants of individual participation in hateful activities and empirically investigates the factors that contribute to hostile behavior towards groups or individuals.

A utility maximization model of individual allocation of time was developed. The research found the following: 1) a higher market wage rate has a statistically negative impact on hateful activity, 2) law enforcement is found to have a statistically insignificant impact on deterring hateful consumption, 3) hate crimes are more likely to be committed in states where the population is liberally inclined, 4) hateful activity occurs proportionately more in states with a better educated populace, 5) hateful activity was not found to be more prevalent in urban areas, 6) there is no difference in the degree of intolerance by occupational status, 7) hate activities do not increase as a result of downward change in the social position of individuals over time.

The following implications stem from the research conducted by Medoff: First, as real wages increase over time, hateful activity should decrease as individuals shift towards less time-intensive forms of consumption. Second, if unemployment rises over time then it will lead to more consumption of the time-intensive hateful activity. Third, law enforcement efforts and appeals to spiritual beliefs will have little effect on hateful activity. Fourth, the empirical results presented provide strong support for the rational-choice approach as it applies to hateful behavior. Future research in the area of economics and hate crime should be explored in order to confirm the findings in this study.

Law Enforcement Training Literature Review

Rinkevich in “The FLETC Concept” (1992) looks at a state of the art training facility that is staffed with professionally trained, full-time law enforcement trainers. The Federal Law Enforcement Training Center (FLETC) was established in 1970. At the conception of FLETC the law enforcement training within the federal government was not consistent. Inadequate facilities for training, part-time instructors, and inconsistent training curriculums were problems that faced law enforcement training centers. The goal of the FLETC was to consolidate the training efforts of Federal law enforcement agencies. The FLETC’s basic programs concentrate on the common skills and knowledge needed by all Federal law enforcement personnel. Specific and specialized training are offered after the completion of the basic training program. Periodic curricula reviews ensure that the training programs are both current and relevant to agency needs. FLETC demonstrates a willingness on the part of all agencies involved to share resources and program management, an objective that contributes to law enforcement as a profession.

This article does not address if hate crime training is offered as a specific training. It would be helpful to explore the FLETC program in more detail to find out if they are training law enforcement agencies on the issue of hate crime. This article did not examine the successfulness of the FLETC training program but rather gives an overview of the program. This article also fails to examine how law enforcement training is done in the United States at regional, state, and local levels. A comparison of the training methods used to train law enforcement personnel would be helpful in

understanding how the training at the national level compares to the training at all other levels for law enforcement officers.

Block in “Policing an Increasingly Diverse America” (1994) examines the importance of training law enforcement officers to recognize cultural diversity among the citizens they serve. Three areas are examined: 1) Richness of Diversity, 2) Complexity of Culture, and 3) Cultural Empathy. A training program was created by an advisory committee to plan and implement a training program for law enforcement officers. The program was intended to provide education and focus on the importance of recognizing cultural diversity. The article points out that the main importance of providing this training is to allow for diversion to occur before the extreme cultural diversity conflict causes hate crime to occur. “Hate crimes whether directed at a place of worship or a specific group of individuals because of their lifestyle, is a sad example of a value system in decay-values in direct conflict with the American value that all men are created equal” (25). It is with this quote that the advisory committee focuses their training in regard to cultural values that law enforcement officers must possess. The training program is used in the Los Angeles County Sheriff’s Office and has proven to be a helpful; training course to better equip their officers to recognize and treat cultural diversity and hate crimes.

Shepard in “ACA, PERF Development Training on Multicultural Awareness” (1994) examines the importance of multicultural awareness. The Office of Juvenile Justice and Delinquency Prevention and the Police Executive Research Forum provided funding for the creation of a training program to educate law enforcement practitioners on the subject of cultural differences. The project began with a survey asking agencies to

provide copies of current curricula being used to train officers. This survey uncovered a tremendous need for cultural differences training to address the issues of race, ethnicity, culture, and gender. A training package was developed that included four modules. The modules were: 1) Why Is This Training Important?, 2) Cultural Differences: What is It?, 3) Cross-Cultural Communication, and 4) Implications for the Job. Section four proved to be the most important because it linked cultural sensitivity to the roles and duties of practitioners. In the initial stages this program seems to have many positive points. Long-term use of the training curriculum will prove whether or not it is making a positive impact.

McAffrey in “Remarks of Barry McCaffrey, Director, Office of National Drug Control Policy 13th Annual National D.A.R.E. Officers Association Meeting” (2000) explores the success of the D.A.R.E. (Drug Abuse Resistance Education) program and the reasons behind their success. McCaffrey speaks on the consequences of drug abuse and presents that the D.A.R.E. anti-drug efforts are yielding success. The number one goal of the D.A.R.E. program is to prevent drug use. Through their media campaigns and school teaching sessions they are helping communities. D.A.R.E. has the most comprehensiveness and widespread drug prevention curriculum in the world. The curriculum and training that D.A.R.E. officers receive is recognized as exceptional in the law enforcement community. The D.A.R.E program curriculum is reviewed on an on going basis to provide for the most up to date and comprehensive program available. This article does not explain the curriculum used in the D.A.R.E. program. It is the progressive training that is received by D.A.R.E. officers that aids in their success of

Drug Abuse Resistance Education. There is no discussion in this article that would explain why the training used in the D.A.R.E. program is referred to as progressive.

This article does not review the D.A.R.E. curriculum in detail but rather explains the importance of providing extensive training to law enforcement officers in order for them to present the D.A.R.E. program in a professional and exceptional manner. The issue of training is pointed out to reinforce this is an integral part of the D.A.R.E. program for the law enforcement officers that present the curriculum to the community.

CHAPTER THREE

MATERIALS AND METHODS

This research project seeks to understand why some states report hate crimes at a higher rate than others. A few factors will be included to understand their contribution or effect on hate crime reporting. These include: statutory provisions for “protected class”, statutory provisions for data reporting, and statutory provisions for training.

Two sources of existing data were used in this research. The first form of data was the U.S. Department of Justice Federal Bureau of Investigation Hate Crime Statistics. This document looked at reported hate crime. The second form of data was the Anti-Defamation League’s report on state hate crimes statutory provisions. This document looked at each states hate crime provisions.

In 1998, a total of 46 states and the District of Columbia participated in the FBI’s Hate Crime Data Collection Program. Alabama, Alaska, Hawaii, and Wisconsin did not participate. The Hate Crime Data Collection Program consisted of summary and incident based data that was sent to the FBI either through state-level Uniform Crime Report Programs or directly from individual agencies in states without UCR Programs. The reports included the following information: type of offense, victim’s information, offender’s information, and location of the crime. The victims and offenders information includes: race, religion, sexual orientation, ethnicity/national origin, and disability.

State reporting of hate crime statistics was obtained from the 1998 Hate Crime Statistics: Uniform Crime Reports published by the U.S Department of Justice Federal

Bureau of Investigation (see appendix A). The 46 states and the District of Columbia represented more than 216 million people, which constitutes 80 percent of the population. In order to control for differences in population size a reporting rate per 100,000 inhabitants was calculated for each state based on the total number of incidents reported and the population for each state. The rate of reporting is the dependent variable in the research.

The state hate crime statutory provisions were obtained from the 1999 report published by the Anti-Defamation League (see appendix B). The ADL report has been used in other studies on hate crimes as well (Jenness 1996; Grattet 1996). The ADL report is the only comprehensive report of its kind at the national level. The ADL report includes a checklist of all the states that outlines which states have statutory provisions for hate crimes. There are ten sections to this report that include: 1) Bias-Motivated Violence and Intimidation; 2) Civil Action; 3) Criminal Penalty; 4) Race, Religion, Ethnicity; 5) Sexual Orientation; 6) Gender; 7) Other -mental and physical disability or handicap, political affiliation; 8) Institutional Vandalism; 9) Data Collection; and 10) Training for Law Enforcement Personnel. The data compiled by the ADL in this checklist is obtained through their up to date research on each of the 50 states and the District of Columbia's hate crime legislation. The chart is updated each time a state adds some type of hate crime legislation. Only those data relevant to this research were taken from the report and used in this analysis. Again, the Anti-Defamation League defines a hate crime as a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability or sexual

orientation of any person. This national definition is used at the state level to report hate crime.

Statistical analysis used in this research includes the Chi-Square Test of Association and the Cramer's V test. The Chi-Square will be used in order to examine whether an association exists between the independent variables (statutory provisions for "protected class", statutory provisions for data reporting, and statutory provisions for training) and the rate of reporting hate crime. The Cramer's V test will be used to establish the strength of associations. The level of significance used for the Chi-Square test will be .05 or less. Values for Cramer's V range from zero to 1, with low values (near zero) indicating weak associations and high values (near 1) indicating strong associations.

Official data, sometimes referred to as secondary analysis were used in this research. This means that the data used was already in existence through two nationally recognized organizations, the Anti-Defamation League and the U.S. Department of Justice. The advantages of using official data include: 1) saves time, 2) saves money, and 3) it would be time consuming and very expensive for an individual to collect this type of data (Bachman and Paternoster, 1997). An individual would not have the resources in addition to time and money such as the appropriate contacts in order to obtain this type of data. One disadvantage of using official data is that it is collected for a specific purpose and may not contain all desired elements the researcher may have liked to utilize (Bachman and Paternoster, 1997). In the case of this research project it would have been extremely helpful if the official data contained more on the issue of training. Specifically, the detailed training curriculum, how the training is conducted, how often

the training occurs, and who receives the training. Second, under or over reporting of hate crimes cannot be controlled since the data were not personally collected.

As with any study, limitations with the data exist. In this case the limitations were: First, the ADL document used in this study is the only one of its kind. There are no other reports to compare this data with. The only way to verify this data would be to do a state-by-state evaluation of hate crime legislation. This process would prove to be extremely time consuming. Second, the U.S. Department of Justice: Hate Crime Statistics Report is also the only kind of document that compiles all states hate crime reporting data into one source. The only way to verify this data would again be to do a state-by-state check to verify their hate crime reports. Again, access to this data would be hard to obtain and a very time consuming process. We can assume that these limitations are not a significant hindrance in the research presented due to the fact that both the Anti-Defamation League and the U.S. Department of Justice are reputable agencies. However, it should be noted that general problems could exist with the Uniform Crime Reports. Various agencies may report crimes in different ways. Dependant on the way an officer handles a situation may affect whether or not the offense gets included in the Uniform Crime Reports. Unfortunately, some law enforcement agencies do not accurately report the crime in their area because they do not want to send a picture that there is crime occurring on their streets. Victims of crime may not report that they have been victimized and thus a formal report is never filed and the public is unaware of the offense occurring. A third limitation that does prove to be troublesome is the fact that specifics on provisions for training could not be obtained. The ADL and U.S. Department of Justice literature does not provide detail on what training provisions actually means.

According to the U.S. Department of Justice literature the Uniform Crime Report staff provide some training to all 50 states. The curriculum used is not included and factors of whether or not the states provide additional training throughout the year are not provided. The Uniform Crime Reports staff has provided training on hate crime for law enforcement officers in 50 states, and the District of Columbia. The training is held periodically and focuses on the standard methodology used to investigate, recognize, and report hate crime (U.S. Department of Justice, 1998). The extent of this training could not be established. Calls were made to several agencies that were listed in the directory of State Uniform Crime Reporting Programs. The following agencies were contacted: Alabama Criminal Justice Information Center, Arizona Department of Public Safety, and Florida Crime Information Bureau. Contact could not be made with anyone who could explain the training their department received from the Uniform Crime Reports staff in regards to hate crime. This means the validity of the findings of this research can be questioned because states without statutory provisions apparently did receive some type of training. The exact type of training the states received needs to be established.

CHAPTER FOUR

RESULTS AND DISCUSSION

Hate Crime Reporting Rates

The reporting rates per 100,000 inhabitants ranged from zero to 16.4. The mean was 3.39, the median was 2.96, and the mode was 1.52. Crosstabs were used to examine hate crime reporting by the states in three categories. The three categories were: low (less than 2 reports), moderate (2-5 reports), and high (more than 5 reports). These categories were devised based upon the distribution of the data and have no significance in the literature (See table 1).

Table 1. Hate Crime Reporting Rates

LOW	MODERATE	HIGH
Arkansas	Connecticut	Arizona
District of Columbia	Delaware	California
Florida	Georgia	Colorado
Iowa	Idaho	Illinois
Indiana	Massachusetts	Kansas
Kentucky	Missouri	Maine
Louisiana	Montana	Maryland
Mississippi	Nebraska	Michigan
North Carolina	New Hampshire	Minnesota
North Dakota	New Mexico	
New Jersey	Nevada	
Oklahoma	New York	
Pennsylvania	Ohio	
Tennessee	Oregon	
Texas	Rhode Island	
	South Carolina	
	South Dakota	
	Utah	
	Virginia	
	Vermont	
	Washington	
	West Virginia	
	Wyoming	

There are some states that appear in the low reporting category that are located in the South. One might possibly think that the history of the Southern states would call for them to fall in the moderate or high categories. It is possible that there are actually lower rates of hate crime occurring in the South. However, another possibility is that the true level of hate crime in the South is not accurately known due to poor training on recognizing and reporting hate crime. The same holds true for the states with the highest reporting rates. They may truly have higher incidents of hate crime occurring in their state or the reporting may be skewed due to training on how to recognize hate crime and emphasis on hate crime within the state.

Extent of Hate Crime Legislation

The extent of hate crime legislation varies in each state. Frequencies were run to determine each states level of comprehensiveness on hate crime legislation as well as the individual protected classes held by each state. The level of comprehensiveness was measured on a two-point scale with zero meaning not comprehensive and one meaning comprehensive. This means if a state had less than two protected classes they were considered to be not comprehensive and states with two or more protected classes were considered to be comprehensive. The four groups of protected classes are: 1) race, religion, ethnicity, 2) sexual orientation, 3) gender, 4) other- mental and physical disability or handicap, political affiliation, or age. The 12 states that have all four groups of protected classes are: Arizona, California, Iowa, Illinois, Louisiana, Massachusetts, Minnesota, Nebraska, New Hampshire, New Jersey, Rhode Island, and Washington. The District of Columbia also has 4 groups of protected classes. The 6 states with three

groups of protected classes include: Arkansas, Delaware, Maine, New York, Nevada, and West Virginia. The following 8 states have two groups of protected classes: Connecticut, Florida, Kentucky, Michigan, Mississippi, North Dakota, Oklahoma, and Oregon. The 12 states with one group of protected classes include: Colorado, Idaho, Maryland, Missouri, Montana, North Carolina, Ohio, Pennsylvania, South Dakota, Tennessee, Vermont, and Virginia. Finally, the 8 states without hate crime legislation or with no protected classes include: Georgia, Indiana, Kansas, New Mexico, South Carolina, Texas, Utah, and Wyoming. The question of why some states have four protected classes and other states have no protected classes is not known. Literature that studies hate crime legislation vary on the reasoning of why states differ so much on whether or not they enact hate crime legislation and more specifically hate crime legislation as it relates to the four established protected classes. The variance ranges from motivation of politicians to enact hate crime legislation to an economic approach to understanding hate crime legislation.

The issue of whether or not a state has legislation for training or data collection was also examined. This was coded as either a yes or no variable (See table 2). The type of training the 12 states received is not known. A description was not included in the ADL checklist or in the U.S. Department of Justice: Hate Crime Statistics Manual. The same is true for the provisions for data collection. The provisions for both most likely vary since they were enacted on a state level. Future research should include a state-by-state analysis of these provisions.

Table 2. State Provisions for Training and Data Collection on Hate Crime

PROVISION FOR TRAINING	PROVISION FOR DATA COLLECTION
Arizona	Arizona
California	California
Illinois	Connecticut
Iowa	District of Columbia
Kentucky	Florida
Louisiana	Idaho
Maine	Illinois
Minnesota	Iowa
Oregon	Kentucky
Rhode Island	Louisiana
Washington	Maine
	Maryland
	Massachusetts
	Michigan
	Minnesota
	Nebraska
	Nevada
	New Jersey
	Oklahoma
	Oregon
	Pennsylvania
	Rhode Island
	Texas
	Virginia
	Vermont
	Washington

The Relationship Between Hate Crime Reporting and Hate Crime Legislation

In order to examine the association between hate crime reporting and hate crime legislation the Chi-Square test was used. The results seemed to be counterintuitive. First, no statistically significant association was found between the comprehensiveness of legislation and reporting. That is, states that had comprehensive legislation and provisions for all four, three, or two of the protected class categories including: 1) race, religion, ethnicity, 2) sexual orientation 3) gender, and 4) physical disability, political affiliation, and age [as measured by presence or absence of hate crime legislation for

these protected classes]. States with comprehensive legislation did not report at any higher rates than states with non-comprehensive legislation or states that had zero or one provision for protected classes.

Second, no statistically significant association was found between provisions for any of the protected classes: 1) race, religion, ethnicity, 2) sexual orientation, 3) gender, 4) physical disability, political affiliation, and age- as measured by presence or absence of hate crime legislation for these protected classes and reporting. Four different analyses were done, one on each provision group as listed above. This means that each individual protected class was examined to see if an association existed between having that protected class and the rate of reporting. The reporting rate remains the same if a state does or does not have a provision for the protected class.

Third, reporting is not affected by whether or not a state has a statutory provision for data collection. That is the rate of reporting does not increase or decrease based on whether or not the state has a statutory provision for data collection. The data inhibits us from understanding why there is no association between rates of reporting and the following: 1) comprehensiveness of data, 2) protected classes, and 3) statutory provision for data collection. Perhaps no association exist between these variables and rates of reporting because the reason behind whether or not a law enforcement officer reports hate crime lies in the fact that they must understand hate crime legislation and how to recognize and report it before they can actually do so.

The fourth result supported the hypothesis that training is associated with reporting. There is a statistically significant association (chi-square 6.664) between statutory provisions for training law enforcement personnel on how to report hate crimes

and reporting behavior, whereby states with a statutory provision for training report hate crimes at a higher rate than the states with no statutory provision for training (See table 3). Twenty-seven percent of the states with a statutory provision for training have a low level of reporting. Twenty-seven percent of the states with a statutory provision for training have a moderate level of reporting. Forty-six percent of the states with a statutory provision for training have a high level of reporting. Conversely, thirty-three percent of the states with no statutory provision for training have a low level of reporting. Fifty-six percent of states with no statutory provision have a moderate level of reporting. Eleven percent of the states with no statutory provision have a high level of reporting. Cramer's V also yielded a moderate (.036) correlation between training and rates of reporting. The Cramer's V test was chosen because it was clear from the chi-square test that there was an association between training and reporting and it was necessary to discover the strength of this relationship. The scale used was from zero to 1 with zero meaning weak association and 1 meaning a high association was present.

Table 3. Rate of Hate Crime Reporting by Provision for Training

		Provision for Training			
		No		Yes	
Reporting Rate	Low	12	33%	3	27%
	Moderate	20	56%	3	27%
	High	4	11%	5	46%
Total		36	100%	11	100%
$\chi^2 = 6.664$ df (2) p <.05 Cramer's V = .036					

The statistically significant association between the rates of hate crime reporting and the provision for training has significant implications. Advocates of hate crime legislation must recognize this association and insure that comprehensive training is provided to law enforcement officers on the issue of hate crime. If law enforcement officers are not trained to properly recognize and report hate crimes then the legislation enacted in the best interest of the protected classes is not being utilized properly. Law enforcement officers must be trained in order to acquire the skills to enforce hate crime legislation as the lawmakers intended it to be enforced. Specifically, a standard training manual should be used across the United States to ensure all law enforcement officers are receiving adequate training on the proper ways to recognize and report hate crime. The FBI should be required to check that all police departments are receiving the training on a regular basis. The training would need to be done on a regular basis so that new officers would receive it upon entering the department and continuing officers could stay current on hate crime legislation. This is the only way that the protected classes will truly be protected.

The findings in this research should be interpreted with caution. There is not a causal relationship between the variables and other variables may explain the association found between the training of law enforcement personnel and hate crime reporting rates. Variables such as the individual officers belief on hate crime, the amount of time an individual has been a law enforcement officer, and the area the officer works in are just a few examples of other variables that may affect hate crime reporting rates by law enforcement officers.

CHAPTER FIVE

RECOMMENDATIONS FOR FUTURE RESEARCH

This study has been an attempt to understand why some states report a higher rate of hate crime than other states. This study showed an association between training and reporting of hate crimes while it yielded no association between reporting and the comprehensiveness of legislation, statutory provisions for hate crime reporting, and the number of protected classes. Future research needs to be done in order to learn more about the association between the training of law enforcement officers and the rates of reporting hate crime. Specifically, research that addresses the specific training curriculum of law enforcement officers is needed. Issues such as type of training that is provided, length of training, how often training is provided, and if the training is being provided equally among the states needs to be addressed. While literature exists on the legitimacy and politics of hate crime legislation, no one has really examined the role of training and it's influence on hate crime statistics reporting. The current level of training on hate crime provided to law enforcement personnel varies from state to state. The amount of variance should be examined and a way to standardize the training should be developed.

If future research can verify the association uncovered in this study it would prove to be helpful in gaining the finances available to provide more extensive training to all law enforcement personnel on the issue of hate crime. It will be through this mechanism that hate crime can be more accurately recognized and reported.

The scholarly research literature that exists on hate crime mainly focuses on the factors that influence hate crime policy. Future hate crime research should further explore explanations that would explain differential reporting of hate crimes by the states. Factors to be considered are: 1) statutory provisions for “protected class”, 2) statutory provisions for data reporting, 3) statutory provisions for training, 4) reasons states enact hate crime legislation and 5) geographical location of states in relationship to reporting rates. This type of research could enhance the existing research on hate crime in order to provide a comprehensive understanding of the issue.

APPENDIX A
HATE CRIME REPORTING BY STATE

HATE CRIME REPORTING BY STATE

Table 12

Agency Hate Crime Reporting
By State¹, 1998

Participating states	Number of participating agencies	Population covered	Agencies submitting incident reports	Total number of incidents reported
Total	10,730	216,235,376	1,810	7,755
Arizona	90	4,441,014	27	283
Arkansas	193	2,533,761	2	3
California	719	32,651,387	239	1,749
Colorado	233	3,970,717	39	128
Connecticut	94	2,719,192	48	109
Delaware	50	562,068	9	19
District of Columbia	1	523,000	1	2
Florida	464	14,826,670	63	179
Georgia	58	1,052,723	10	34
Idaho	120	1,220,792	26	58
Illinois	73	4,891,615	68	277
Indiana	150	3,717,036	18	50
Iowa	218	2,668,398	0	0
Kansas	1	329,179	1	54
Kentucky	264	2,941,256	19	45
Louisiana	134	2,789,979	7	10
Maine	133	1,219,585	17	57
Maryland	147	5,130,893	32	282
Massachusetts	177	4,352,318	98	431
Michigan	546	6,766,382	152	384
Minnesota	72	2,448,133	72	248
Mississippi	90	1,294,255	3	3
Missouri	212	4,092,986	24	118
Montana	77	769,382	12	22
Nebraska	202	1,342,201	13	52
Nevada	35	1,747,000	9	60
New Hampshire	57	472,857	9	16
New Jersey	565	8,115,000	255	757
New Mexico	59	1,121,146	5	31
New York	500	18,170,860	33	776
North Carolina	434	7,451,189	18	39
North Dakota	81	495,030	2	2
Ohio	344	7,394,669	62	172
Oklahoma	295	3,326,390	25	57
Oregon	167	3,264,432	21	93
Pennsylvania	1,127	11,744,149	31	168
Rhode Island	46	988,000	10	29
South Carolina	300	3,830,806	40	94
South Dakota	76	567,373	7	19
Tennessee	260	3,085,684	30	58
Texas	931	19,731,597	97	300
Utah	101	1,829,393	32	66
Vermont	37	418,582	9	13
Virginia	414	6,791,000	45	160
Washington	238	5,520,307	51	221
West Virginia	112	708,363	16	21
Wyoming	33	266,627	3	6

¹ Due to the updating of Hate Crime submissions, data in this table may differ from those published in the 1998 edition of *Crime in the United States*.

APPENDIX B

STATE HATE CRIMES STATUTORY PROVISIONS

STATE HATE CRIMES STATUTORY PROVISIONS

Alabama - Idaho												
	AL	AK	AZ	AR	CA	CO	CT	DC	DE	FL	GA	HI
Bias-Motivated Violence and Intimidation	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
Civil Action				✓	✓	✓	✓	✓		✓	✓	✓
Criminal Penalty	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
Race, Religion, Ethnicity ¹	✓	✓	✓		✓	✓	✓	✓	✓	✓		✓
Sexual Orientation			✓		✓		✓	✓	✓	✓		
Gender		✓	✓		✓			✓				
Other ²	✓	✓	✓		✓			✓	✓			
Institutional Vandalism	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Data Collection ³			✓		✓		✓	✓		✓		✓
Training for Law Enforcement Personnel ⁴			✓		✓							

Montana - Pennsylvania												
	MT	NE	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR
Bias-Motivated Violence and Intimidation	✓	✓	✓	✓	✓		✓ ⁵	✓	✓	✓	✓	✓
Civil Action		✓	✓		✓					✓	✓	✓
Criminal Penalty	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Race, Religion, Ethnicity ¹	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Sexual Orientation		✓	✓	✓	✓							✓
Gender		✓		✓	✓		✓		✓			
Other ²		✓	✓	✓	✓		✓				✓	
Institutional Vandalism	✓		✓		✓	✓		✓		✓	✓	✓
Data Collection ³		✓	✓		✓						✓	✓
Training for Law Enforcement Personnel ⁴												✓

Illinois - Missouri												
	IL	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	MS
Bias-Motivated Violence and Intimidation	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓
Civil Action	✓	✓			✓			✓	✓	✓		✓
Criminal Penalty	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓
Race, Religion, Ethnicity ¹	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓
Sexual Orientation	✓	✓			✓	✓		✓		✓		
Gender	✓	✓			✓	✓				✓	✓	✓
Other ²	✓	✓			✓	✓		✓		✓		
Institutional Vandalism	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓
Data Collection ³	✓		✓		✓	✓	✓	✓	✓	✓		
Training for Law Enforcement Personnel ⁴	✓	✓			✓	✓		✓		✓		

Rhode Island - Wyoming												
	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
Bias-Motivated Violence and Intimidation	✓		✓	✓	✓ ⁶	✓ ⁷	✓	✓	✓	✓	✓	
Civil Action	✓		✓	✓			✓	✓	✓		✓	
Criminal Penalty	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	
Race, Religion, Ethnicity ¹	✓		✓	✓			✓	✓	✓	✓	✓	
Sexual Orientation	✓						✓		✓		✓	
Gender	✓						✓		✓	✓		
Other ²	✓						✓		✓	✓	✓	
Institutional Vandalism	✓	✓		✓	✓			✓	✓		✓	
Data Collection ³	✓				✓			✓	✓			
Training for Law Enforcement Personnel ⁴	✓								✓			

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